



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 18 - 11
BILL 76(2017)

A BILL FOR AN ORDINANCE

TO REZONE LAND SITUATED AT WAIALUA, OAHU, HAWAII.

BE IT ORDAINED by the People of the City and County of Honolulu.

SECTION 1. Zoning Map No. 17 (Mokuleia-Waialua-Haleiwa), Ordinance No. 86-134, is hereby amended as follows: Land situated at 66-920 Paahihi Street, Waialua, Oahu, Hawaii, hereinafter described, is hereby rezoned from the AG-1 Restricted Agricultural District to R-5 Residential District. The boundaries of said District shall be described as shown on the map attached hereto, marked "Exhibit A" and made a part hereof, and further identified as Tax Map Key: 6-6-019: 013.

SECTION 2. A Unilateral Agreement marked "Exhibit B" is by reference incorporated herein and made a part hereof.



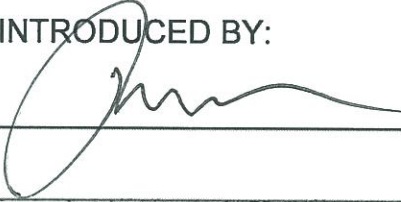
CITY COUNCIL
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HONOLULU, HAWAII

ORDINANCE 18-11
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SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:

 (br)

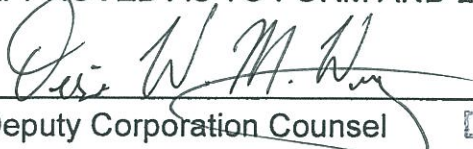
DATE OF INTRODUCTION:

SEP 13 2017

Honolulu, Hawaii

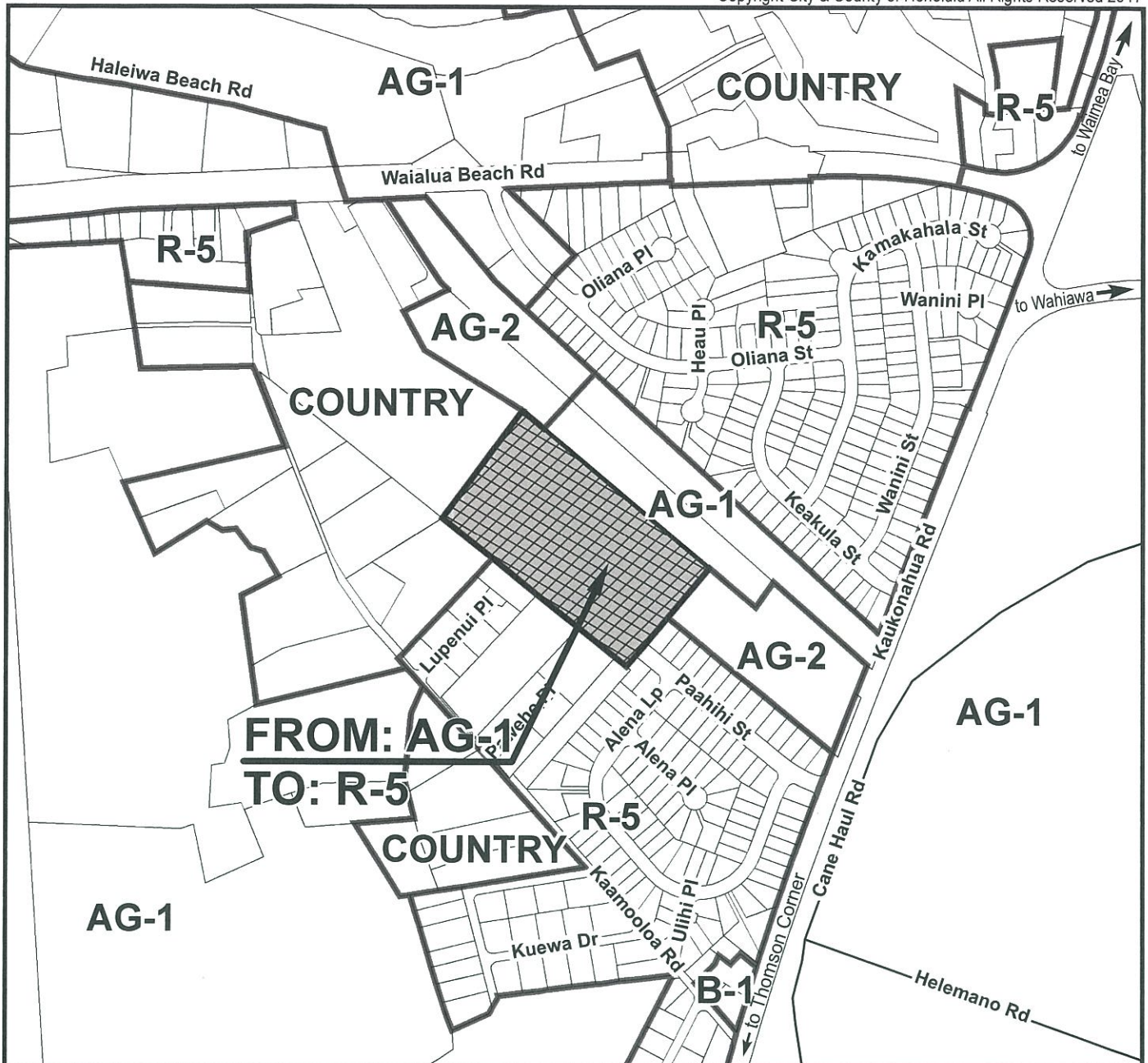
Councilmembers

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel DENISE W. WONG

APPROVED this 13th day of April, 20 18.


KIRK CALDWELL, Mayor
City and County of Honolulu

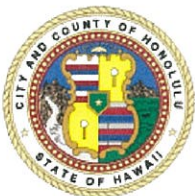


PORTION OF
ZONING MAP NO. 17
(MOKULEIA-WAIALUA-HALEIWA)

Land situated on the northwesterly end of Paahini St.



0 200 400
Scale in Feet



APPLICANT: LEO'OLE SUBDIVISION

TAX MAP KEY(S): 6-6-019:013

FOLDER NO.: 2017/Z-3

LAND AREA: 7.981 Ac.

PREPARED BY: DEPARTMENT OF PLANNING & PERMITTING
CITY AND COUNTY OF HONOLULU

PUBLIC HEARING

PLANNING COMMISSION

CITY COUNCIL

ORD. NO. **18-11**

AUG 30 2017

FEB 28 2018

2017/Z-1

EFF. DATE: **APR 13 2018**

EXHIBIT A

BILL **76 (2017)**

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII
BUREAU OF CONVEYANCES
DOCUMENT NO. - Doc A - 66550551
DATE - TIME - March 22, 2018 10:45 AM

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP (X) TO:

Leo'Ole LLC
PO Box 1962
Kailua, HI 96734

TITLE OF DOCUMENT: Unilateral Agreement and Declaration for
Conditional Zoning

PARTY TO DOCUMENT: Leo'Ole LLC

TAX MAP KEY: (1) 6-6-019-013

**UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 21st day of March, 2018, by Leo'Ole LLC, a Hawaii limited liability company (hereinafter referred to as the "Declarant"), whose address is PO Box 1962, Kailua, Hawaii 96734.

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Waialua, City and County of Honolulu, State of Hawaii, consisting of approximately 7.981 acres, described as Tax Map Key No. (1) 6-6-019: 013, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Land"), and desires to make the Land subject to this Unilateral Agreement; and

WHEREAS, the Declarant plans to develop a residential affordable housing project on the Land (Leo'Ole), consisting of approximately 25 lots and a neighborhood park; and

WHEREAS, the City Council (the "Council") of the City and County of Honolulu (the "City"), pursuant to the provisions of the Land Use Ordinance ("LUO"), Revised Ordinances of Honolulu 1990 ("ROH") Section 21-2.80, as amended, relating to conditional zoning, is considering a change in zoning under the LUO of the Land from AG-1 Restricted Agricultural District to R-5 Residential District; and

WHEREAS, a public hearing regarding the change in zoning, Bill 76 (2017), was held by the Council on February 28, 2018; and

WHEREAS, the Council recommended by its Zoning Committee Report No. CR-106 (2018) that the said zone change be approved, subject to the following conditions contained in this Declaration to be made pursuant to the provisions of ROH Section 21-2.80, as amended, relating to conditional zoning, and to become effective on the effective date of the zoning ordinance approving the change of zoning (the "Rezoning Ordinance");

NOW THEREFORE, the Declarant hereby covenants and declares as follows:

1. Affordable Housing.
 - A. The Declarant shall satisfy the State Land Use Commission ("LUC") condition (State LUC Docket No. A81-504), which requires that 50% of the residential dwelling units be affordable to low-to moderate-income households, or as otherwise amended and required by the LUC.
 - B. Prior to the issuance of any building permit for each phase of development, the Declarant shall execute a binding agreement to participate in an affordable housing plan that is acceptable to the Department of Planning and Permitting ("DPP"), in accordance with adopted rules. The agreement shall provide for no less than 30 percent of the total number of dwelling units constructed in each corresponding phase of development to be affordable dwelling units, or for the payment of an equivalent fee in-lieu of construction of the affordable dwelling units.
2. Environmental Response Law and Hazardous Waste. Prior to the issuance of any grading permit, the Declarant shall submit a soil study to the State Department of Health, Hazard Evaluation and Emergency Response Office, which study must test for the presence of residual pesticides and other soil contaminants. Upon submission of the soil study, the Declarant shall submit to DPP written confirmation from the State of Hawai'i, Department of Health, that the Project is not required to meet, has met, or is meeting the requirements of

Chapter 128D of the Hawai'i Revised Statutes ("Environmental Response Law"), and applicable rules.

3. Construction Management Plan (CMP). Prior to the issuance of any building or grading permit for major construction work, the Declarant shall submit a CMP to the DPP for review and approval. The CMP must identify the type, frequency, and routing of heavy trucks and construction-related vehicles. Every effort must be made to minimize impacts from these vehicles and related construction activities. The CMP must include provisions to limit vehicular activity related to construction to periods outside of the peak traffic periods, using alternate routes for heavy trucks; provisions for on-site or off-site staging areas for construction-related workers and vehicles to limit the use of on-street parking around the project site; and other mitigation measures related to traffic and potential neighborhood impacts. The Declarant shall document the condition of roadways prior to the start of construction activities and provide remedial measures, as necessary, such as restriping, roadway resurfacing, or roadway reconstruction, if the condition of the roadways has deteriorated as a result of the related construction activities.
4. Historic Preservation. Prior to the issuance of any building or grading permit, the Declarant shall submit construction plans to the Department of Land and Natural Resources, State Historic Preservation Division ("SHPD") for review of possible impacts to significant historic or archaeological resources. The Declarant shall comply with any mitigative requirements recommended by the SHPD.
5. Compliance with Other Governmental Requirements. The Declarant acknowledges that approval of the zone change does not constitute compliance with Land Use Ordinance ("LUO") or other governmental requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that the final plans for the project comply with all applicable LUO and other governmental provisions and requirements.
6. Annual Reports. On an annual basis, the Declarant shall submit a written status report to the DPP documenting its satisfaction of, or describing its progress toward complying with each condition of approval for this zone change. The status report shall be submitted to the DPP by December 31 of each year until such time as the DPP has determined that all conditions of approval have been satisfied.
7. Noncompliance with Conditions. In the event of noncompliance with any of the conditions set forth herein, the Director of the DPP shall inform the City Council and may seek civil enforcement or take appropriate action to terminate or stop the Project until applicable conditions are met, including but not limited to revoking any permits issued under this zoning and withholding issuance of other permits related to the Project. Noncompliance also may be grounds for the enactment of ordinances making further zone changes, including revocation of

the underlying zoning, upon initiation by the proper parties in accordance with the Revised City Charter.

NOW, THEREFORE, the Declarant hereby makes the following additional Declarations:

As used herein, references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested change in zoning and are rationally related to the objective of preserving the public health, safety and general welfare and the further implementation of the General Plan of the City and County of Honolulu.

That the development of the Land shall conform to the aforesaid conditions with the understanding that, at the request of the Declarant and upon the satisfaction of the conditions set forth in the Unilateral Agreement, the DPP may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.

That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Land and shall bind and constitute notice to all the parties hereto and subsequent lessees, grantees, assignees, mortgages, lienors, successors, and any other persons who have or claim to have an interest in the Land, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that the Declarant or his successors and assigns may file a petition with the DPP for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

IN WITNESS WHEREOF, the party hereto has executed this Unilateral Agreement and Declaration for Conditional Zoning on the day and year first above written.

DECLARANT:

Leo'Ole, LLC,
A Hawaii Limited Liability Company



By: Aaron Jones
Member, Leo'Ole LLC

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 21st day of March, 2018, before me personally appeared **AARON JONES**, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



[Signature]
Name: Lorri R Higuchi
Notary Public, State of Hawaii
My commission expires: 4/11/2018

(Notary Stamp or Seal)

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description: <u>Unilateral Agreement and Declaration for Conditional Zoning</u>	
Document Date: <u>3/21/18</u>	
No. of Pages: <u>8</u>	
Jurisdiction (in which notarial act is performed): First Circuit <u>[Signature]</u> <u>3/21/18</u>	
Signature of Notary <u>[Signature]</u> <u>Lorri R Higuchi</u>	Date of Notarization and Certification Statement <u>3/21/18</u>
Printed Name of Notary	

(Notary Stamp or Seal)

EXHIBIT A

Property Description

All that certain parcel of land, being a portion of Grant 236, Apana 2 to John O. Davis, situate at Kamananui, Waialua, Island and County of Oahu, State of Hawaii, being more particularly described as follows:

Beginning at an iron pin at the north corner of this parcel of land, being also the end of Course 2 of Lot 7 of Land Court Application 1164, the coordinates of said point of beginning referred, to Government Survey Triangulation Station "PUU IKI" being 12,833.43 feet north and 3,803.61 feet east and thence running by azimuths measured clockwise from true south:

1. 309° 57' 787.40 feet along Lot 7 of Land Court Application 1164 to an iron pin;
2. 310° 48' 15.39 feet along Lot 7 of Land Court Application 1164 to an iron pin;
3. 40° 29' 216.37 feet along the remainder of Grant 236, Apana 2 to John O. Davis to an iron pin;
4. 38° 41' 209.65 feet along Lot 6-A to Land Court Application 1164 to an iron pin;
5. 128° 45' 800.56 feet along Grant 554 to Hakapau and Grant 1109 to Henry Williams to an iron pin;
6. 219° 18' 442.98 feet along remainder of Grant 236, Apana 2 to John O. Davis to the point of beginning and containing an area of 347,661 square feet, or 7.981 acres, more or less.

TOGETHER WITH a 10-ft. easement for road purposes over, across and along a strip of land within Lot 6-A of Land Court Application 1164 and more particularly described as follows:

Beginning at an iron pin at the north corner of this strip of land, being also the end of Course 7 of Lot 6 of Land Court Application 1164 and the end of Course 3 of the above described parcel of land and thence running by azimuths measured clockwise from true south:

1. 309° 27' 703.55 feet along the remainder of Grant 236, Apana 2 to John O. Davis;
2. 21° 16' 10.53 feet along the westerly side of Kaukonahua Road;
3. 129° 27' 706.70 feet along the remainder of Lot 6-A of Land Court Application 1164;
4. 218° 41' 10.00 feet along the remainder of Grant 236, Apana 2 to John O. Davis to the point of beginning and containing an area of 7,051 square feet, more or less.

Being the premises conveyed by that certain Warranty Deed (By Way of Exchange) (Direct Conveyance Pursuant To Exchange Agreement) dated July 17, 2014, made by and between AARON CHARLES JONES and MARIS MICHIO KUMURA JONES, husband and wife, as Tenants by the Entirety, as Grantor, and Leo'Ole LLC, a Hawaii limited liability company, as Grantee, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-53111080.

END OF EXHIBIT A

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE **18-11**

BILL 76 (2017)

Introduced: 09/13/17

By: RON MENOR – BY REQUEST

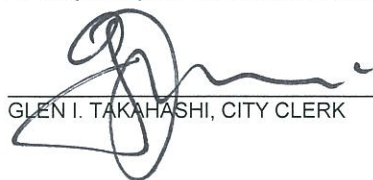
Committee: ZONING AND HOUSING

Title: A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT WAIALUA, OAHU, HAWAII.

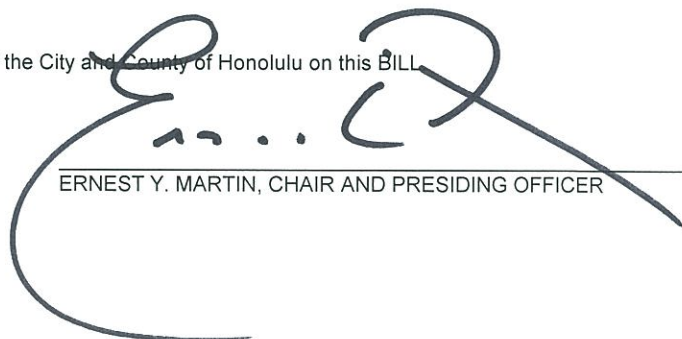
Voting Legend: * = Aye w/Reservations

10/11/17	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MARTIN, MENOR, OZAWA, PINE. 1 ABSENT: MANAHAN.
12/06/17	COUNCIL	M-6706 APPROVED. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
01/20/18	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/15/18	ZONING AND HOUSING	CR-84(18) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
02/17/18	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/28/18	COUNCIL/PUBLIC HEARING	CR-84(18) ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
03/09/18	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
03/22/18	ZONING AND HOUSING	CR-106(18) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
03/28/18	COUNCIL	CR-106(18) ADOPTED AND BILL 76 (2017) PASSED THIRD READING. 8 AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE. 1 ABSENT: ANDERSON.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.



GLEN I. TAKAHASHI, CITY CLERK



ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER